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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,600	07/03/2001	Ravi Gauba	80398.P448	1960
Florin Corie BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP Seventh Floor 12400 Wilshire Boulevard Los Angeles, CA 90025-1026				
EXAMINER				
PENG, FRED H				
ART UNIT		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

09/898,600

**Applicant(s)**

GAUBA ET AL.

**Examiner**

FRED PENG

**Art Unit**

2623

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 May 2008.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 2, 4, 5, 7-16, 18, 19, 21-29, 31, 32 and 34-38 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1, 2, 4, 5, 7-16, 18, 19, 21-29, 31, 32 and 34-38 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

In view of the Appeal Brief filed on 5/27/08, PROSECUTION IS HEREBY REOPENED. A new grounds for rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/Vivek Srivastava/

Supervisory Patent Examiner, Art Unit 2623.

***Transitional After Final Practice***

Since this application is eligible for the transitional procedure of 37 CFR 1.129(a), and the fee set forth in 37 CFR 1.17(r) has been timely paid, the finality of the previous Office action is hereby withdrawn pursuant to 37 CFR 1.129(a). Applicant's Appeal Brief submission after final filed on 05/27/2008 has been entered.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-2, 4-5, 7-16, 18-19, 21-29, 31-32 and 34-38 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-2, 4-5, 7-8, 12-15, 18-19, 21-22, 24-25, 28-29, 31-32 and 34-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rafey et al (US 2002/0170068) in view of Lawler (US 5,758,259).

Regarding Claims 1, 12 and 28, Rafey discloses an apparatus (FIG.3) with corresponding method and computer readable medium comprising:

a control module (FIG.3, -36, -46) to retrieve a detailed profile of a user (80; Para 36) and content information associated with a selected content file (42), and to select a play sequence of said selected content file based on said detailed profile and said content information (Para 23); said selected content file

comprising a plurality of content segments, each content segment having associated segment information within said content information, and wherein said play sequence comprises content segments linked together through said segment information (Para 23; Para 43); and a presentation module (44, 56) to present said play sequence to said user (Para 24),

wherein said control module modifies said play sequence if further selection input is received from said user in response to presenting said play sequence (Para 9 lines 6-13; Para 45 lines 17-28; Para 46 lines 4-8).

Rafey is not explicit about a control module to generate an interactive list of content files for presentation to a user based on a profile of said user, to receive a selection input command selecting a content file from said interactive list.

In an analogous art, Lawler discloses a control module to generate an interactive list of content files for presentation to a user based on a profile of said user, to receive a selection input command selecting a content file from said interactive list (Col 4 lines 43-57).

It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Rafey 's system to include a control module to generate an interactive list of content files for presentation to a user based on a profile of said user and receive a selection input command selecting a content file from said interactive list, as taught by Lawler for the added advantage of helping

the viewer easily and quickly to identify and choose the preferred program among hundreds of programs.

Regarding Claims 2, 14, 15 and 29, Rafey further discloses the control module receives an explicit input command from the user, the explicit input command requesting a change in the play sequence of the selected content file and further selects a modified play sequence of the selected content file based on the explicit input command and presents the modified play sequence to the user (Para 45 lines 17-28).

Regarding Claims 4, 18 and 31, Rafey further discloses the selected content file comprises audio/video data (Para 44 lines 1-5).

Regarding Claims 5, 19 and 32, Rafey further discloses the content information associated with the selected content file comprises a description of the selected content file (FIG.3, 38, 40) and news related to the selected content file (Para 25; Para 28; President Clinton at Camp David is news related to the content).

Regarding Claims 7, 21 and 34, Rafey further discloses processing the segment information of the each content segment and the profile of the user to match the segment information with the profile, and selects a predetermined

number of content segments from the plurality of content segments in a predetermined order to form the play sequence (Para 46 lines 9-24).

Regarding Claims 8, 22 and 35, Rafey further discloses the play sequence comprising a predetermined number of content segments of the selected content file in a predetermined order and the modified play sequence further comprises the predetermined number of content segments in a modified order requested by the explicit input command (Para 45 lines 17-28).

Regarding Claim 13, Rafey in view of Lawler further discloses a storage module (FIG.3, 80) to store the detailed profile of the user (Para 36) and a plurality of content files including the selected content file (FIG.3, 38; Para 19 lines 7-10).

Regarding Claim 24, Rafey further discloses the profile of the user is stored in a profile storage area of the storage module (FIG.3, 80; Para 36).

Regarding Claim 25, Rafey further discloses the plurality of content files is stored in a content storage area of the storage module (FIG.3, 38).

4. Claims 9-11, 16, 23, 26, 27 and 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rafey et al (US 2002/0170068) and Lawler (US 5,758,259) as applied to claims 1, 12 and 28 above, and further in view of Sitnik (US 6,160,570)

Regarding Claims 9, 23 and 36, Rafey and Lawler are not explicit about the control module selecting advertising material based on the profile of the user and the presentation module further presents the advertising material to the user together with the play sequence of the selected content file.

In an analogous art, Sitnik discloses a control module selecting advertising material based on the profile of the user and the presentation module further presents the advertising material to the user together with the play sequence of the selected content file (Col 8 lines 35-52; Col 9 lines 10-56; Col 4 lines 8-34).

It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the combined systems of Rafey and Lawler to include a control module selecting advertising material based on the profile of the user and the presentation module further presents the advertising material to the user together with the play sequence of the selected content file, as taught by Sitnik with the added advantage for targeted advertisements.

Regarding Claims 10, 26 and 37, Sitnik further discloses the explicit input command requests presentation of at least one advertisement to the user (Col 8 lines 34-52, 55-62; Col 9 lines 24-49).



Regarding Claims 11, 27 and 38, Sitnik further discloses selecting the at least one advertisement based on the explicit input command and the presentation module presents the at least one advertisement to the user (Col 8 lines 35-52, 55-62; Col 8 lines 15-18).

Regarding Claim 16, Sitnik further discloses retrieving the profile of the user and the plurality of content files from the storage module and selects at least one content file of said plurality of content files based on said profile of said user (Col 5 lines 33-46; Col 4 lines 53-59; Col 8 lines 1-18).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRED PENG whose telephone number is (571)270-1147. The examiner can normally be reached on Monday-Friday 09:00-18:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on (571) 272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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